

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN POTTER,

Petitioner,

No. 09-CV12049-DT

vs.

Hon. Gerald E. Rosen

WILLIE SMITH,

Respondent.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND
DISMISSING PLAINTIFF'S HABEAS CORPUS ACTION

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on September 29, 2010

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

This matter having come before the Court on the August 4, 2010 Report and Recommendation of United States Magistrate Judge Paul J. Komives recommending that the Court deny Plaintiff's petition for a writ of habeas corpus and that this case, accordingly, be dismissed; and Petitioner having timely filed Objections; and the Court having reviewed the Magistrate Judge's Report and Recommendation, Petitioner's Objections, and the Court's file of this action and having concluded that, for the reasons stated in the Report and Recommendation, Plaintiff's petition for habeas corpus relief should be denied; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's

Report and Recommendation of August 4, 2010 [**Dkt. # 10**] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Plaintiff's petition for habeas corpus relief **Dkt. # 1]** be, and hereby is DENIED and the above-captioned case, therefore, is DISMISSED.

IT IS FURTHER ORDERED that for the reasons stated in the Report and Recommendation, the Court concludes that Petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, the Court declines to issue a certificate of appealability or grant leave to proceed on appeal *in forma pauperis*. See Fed. R. App. Pro. 24(a).

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: September 29, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 29, 2010, by electronic mail and upon Kevin Potter, #193086, Ionia Maximum Correctional Facility, 1576 W. Bluewater Highway, Ionia, MI 48846 by ordinary mail.

s/Ruth A. Gunther
Case Manager